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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Arnold & Porter, LLP
Attention : Docketing
555 Twelfth Street, NW
Washington, D.C. 20004-1202

In re Application of
BARON et al
Application No.: 10/576,061
PCT No.: PCT/US2004/034093
Int. Filing Date: 18 October 2004
Priority Date: 17 October 2003
Attorney Docket No.: 0302-UTL2-0
For: SILYL PHENOLS PROMOTING
VASCULAR HEALTH

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NOTIFICATION

This application is before the PCT Legal Office for consideration of matters under 35 USC 371.

BACKGROUND

On 18 October 2004, applicants filed international application No. PCT/US2004/034093, which claims a priority date of 17 October 2003.

On 17 April 2006, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. No executed oath or declaration of the inventors was submitted at such time.

On 09 January 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from the date of this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 14 April 2008, applicants filed a "REPLY TO NOTICE TO FILE MISSING PARTS OF APPLICATION," which included, *inter alia*, an executed declaration.

DISCUSSION

The declaration of the inventors is not acceptable at this time, in that the names of the joint inventors, Eugene COATS, Soumitra S. GHOSH, Odie E. LEVY and Christopher j. Soares, have been added to the declaration since these inventors were not listed on the international application. Also applicants have not provided proper documentation, such as PCT/IB/306, supporting the addition of the inventor.

Applicants will need to file a statement of additional inventors under 37 CFR. 1.497(d). A submission under 37 CFR 1.497(d) must include:

- (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (2) the fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

Alternatively, applicants may provide a showing that added inventors were effected in accordance with PCT Rule 92Bis prior to the filing of the present national stage application.

CONCLUSION

For the reasons above, the application may not enter into national stage processing at this time.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) because the declaration was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

A proper response must be filed within ONE (1) MONTH non-extendable time period from the mail date of this notification. The response should include a cover letter entitled "Submission Under 37 CFR 1.497." Failure to timely respond will result in the abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

Facsimile: (571) 273-0459